UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/SR.37/Add.1
1 March 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE SECOND PART* OF THE 37th MEETING (PUBLIC)

Held at the Palais des Nations, Geneva,
on Wednesday, 24 February 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

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* The summary record of the first part (closed) of the meeting appears as document E/CN.4/1993/SR.37.

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GE.93-11186 (E)

The public meeting was called to order at 5.15 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER, CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (agenda item 10) (continued) (E/CN.4/1993/4, 20-23 and Add.1-2, 24, 25 and Add.1, 26-28, and 86; E/CN.4/1993/NGO/7, 9 and 10, 18-20, and 22; E/CN.4/1992/17 and Add.1, 18 and Add.1, and 20; E/CN.4/Sub.2/1992/9 and Add.1, 17, 19, 22 and 23/Rev.1, 24 and Add.1-3; A/47/662; A/RES/47/109)

1. Ms. PORRAS JIMENEZ (Commission for the Defence of Human Rights in Central America) said that, in 1992, journalists and information media personnel in Guatemala had been subjected to constant harassment and governmental repression, merely because they had tried to perform the social function of providing accurate, objective and timely information to the national community.

2. The Human Rights Commission of Guatemala (CDHG) had reported during the current year 11 cases of journalists who had been threatened with death or subjected to physical and psychological aggression and several attacks against information media. As a result, a number of journalists had been obliged to leave the country in order to protect their lives and those of their families, as in the case of Omar Canon, a journalist for the newspaper Siglo Ventiuno, who had been brutally beaten by a gang of civilians in the presence of soldiers while carrying out a journalistic investigation into timber smuggling and the deforestation of a protected zone.

3. The intimidation to which journalists were subjected had been mentioned by the independent Expert on the situation in Guatemala, Mr. Tomuschat, who had said that journalists tried to avoid any direct accusation against the Government or the armed forces regarding politically motivated crimes, since they feared for their lives (E/CN.4/1993/10, para. 164).

4. Many of the human rights violations were caused by serious problems resulting from the defective administration of justice in the region, including the lack of impartiality and independence of the judiciary, antiquated systems, inadequate resources and, in some cases, the corruption of judicial officials.

5. Impunity in Central America continued to be one of the central problems, particularly in the cases of Guatemala and El Salvador, where impunity constituted an obstacle to negotiation and the reconciliation process.

6. The purging of the armed forces in El Salvador, as provided for in the Peace Agreements, was one basic way of dealing with impunity and laying the foundations for the full respect of human rights. However, the failure of the Government to implement some of the recommendations of the Ad Hoc Commission concerning the purging of the armed forces endangered the consolidation of the peace process and demonstrated the weakness of the civilian authorities vis-à-vis the military structure.

7. Her organization was concerned about the charges brought against the Non-Governmental Human Rights Commission of El Salvador (CDHES) and the National Union of Salvadorian Workers (UNTS) by the Government and armed forces of El Salvador in connection with their campaign waged against military impunity. Such a situation endangered the role played by non-governmental organizations in shedding light on various violations of human rights.

8. Enforced disappearances continued to occur in Central America. While the number of new cases had declined in some countries of the region, that was not so in Guatemala, which had one of the worst records in Central America.

9. After referring to a number of specific cases of enforced disappearance in Honduras, she said that it was essential that the international community should take steps to prevent, through appropriate machinery, the occurrence of that crime against humanity.

10. Mr. MEDANI (Arab Lawyers Union), speaking also on behalf of the Sudan Human Rights Organization, said he wished to draw attention to the situation in the Sudan, which, since 30 June 1989, had endured the darkest period in its history as far as political arrests, detentions and torture were concerned. Immediately after the new Government took power, leaders of political parties and trade unions, journalists, lawyers and human rights activists had been arrested and held in detention without charge or trial for long periods, being denied visits from relatives, friends or lawyers.

11. A few months later, when trade unionists, doctors and engineers had sought to stage a general strike, there had been wide-scale detentions of professionals of all kinds, who had been sent to so-called "ghost houses", where the most brutal types of torture had been used for the purpose of obtaining confessions or of breaking them down psychologically to deter them and others from opposing the regime.

12. At least four persons were known to have died as a result of torture, while a number of others had suffered permanent physical and psychological damage. There was a young Sudanese present in the conference room who had just escaped from the Sudan and who was prepared to inform the members of the Commission of his two-year ordeal in Sudanese prisons.

13. In his statement to the Commission at a previous meeting, the Sudanese Minister of Justice had admitted to some violations of human rights committed by the Government during what he had called the "transition" from anarchy to stability. According to the Minister, stability had since been achieved and, consequently, there were no longer any political prisoners.

14. The Government had been in power for almost four years; the state of emergency was still in force, and the curfew was still in place. Detention without charge or trial and torture in "ghost houses" still continued. In a recent report, Amnesty International had stated that there were at least 250 known persons in detention in Khartoum alone in 1992. Information on other places was not readily available, although arrests, detentions, torture, disappearances and extrajudicial executions were an everyday occurrence. A new security practice aimed at making repression less visible was to invite suspected opponents of the Government to report every morning to the security offices, where they were held all day and then asked to come back the following morning.

15. The Minister of Justice had tried to express goodwill and hope, but his words had to be considered in the context of the de facto philosophy and plans of the political regime and the de jure legal parameters within which human rights were valued in the Sudan. The Minister had referred to an improvement in the situation resulting from an amendment, in 1991, to the State Security Act, as a result of which all political detentions were allegedly subject to judicial review. That was not exactly the situation as the Minister well knew.

16. Constitutional Decrees Nos. 1, 2 and 3 were the supreme laws by which the Sudan was governed. Under article 6 of Constitutional Decree No. 2, a state of emergency had been declared all over the country and the President of the Revolutionary Command Council, or any person authorized by him, had been empowered to adopt several measures, including the arrest of any person suspected of threatening political or economic security.

17. The Revolutionary Command Council could establish special courts and determine their procedure for the trial of persons accused of offences under the emergency provisions, which included opposing the Revolution, participating in strikes and holding political meetings. Conviction for such offences carried severe punishments, including the death penalty. Action taken under the Decree was not contestable before the courts or any other body. Appeals could be made only to the Revolutionary Command Council itself.

18. The State Security Act referred to by the Minister dealt with a totally different matter - the power of the security authorities to arrest and detain persons for offences other than those under the Constitutional Decree or the Emergency Act. The State Security Act empowered any security officer to detain any person for questioning for 72 hours, which could be extended up to one month. The 1991 amendment to the Act had added a new section which enabled the National Security Council, or any person authorized by it, to order the "preventive detention" of any person for up to three months, which could be extended by a further three months.

19. The only powers given to the judicial authorities under the new section were to ensure that the detention was in accordance with the Act and to review the decision of the National Security Council to renew the detention after the first three-month period. However, even if the judge refused to approve such a renewal and the person was released, he could be rearrested after one month. In such a case, the judge had no further powers.

20. The fallacious suggestion that arrests and detentions were judicially supervised under the State Security Act must also be looked at in the light of several important considerations. First, the 1991 amendment to the Act defined the "judge" for the purposes of the Act as the judge "appointed by the Chief Justice for the purpose of supervising preventive detention" and not the judge having regular jurisdiction in the district. Secondly, the independence of the judiciary had been almost completely eroded by the Government, which had dismissed the majority of competent judges at all levels. Thirdly, under article 3 (g) of Constitutional Decree No. 3 of 1989, the President of the Revolutionary Command Council had the power to supervise the judiciary and to appoint judges.

21. Another significant amendment to the State Security Act - not mentioned by the Minister of Justice - had been made in 1992. Prior to that amendment, the limited supervisory powers given under the Act to the judge designated by the Chief Justice had also been given to the district attorney designated by the Attorney-General - who was also the Minister of Justice. The 1992 amendment had deleted all reference to the district attorney. Consequently, the Minister of Justice had no legal basis whatsoever to interfere in any political arrest or detention.

22. The Minister's words and intentions must be construed in that context. The Committee which he had set up to monitor human rights under his supervision had no legal powers, and it was difficult to see how he or his Committee would be able to transcend the political and security limitations established by the regime.

23. Much more could be said about the tragic human rights situation in the Sudan. According to the recent Amnesty International report, the need for decisive action on behalf of human rights there had never been greater, and the international community was called upon to ensure that the situation in all parts of the country was closely and continually monitored.

24. Mr. BAKALE (African Association of Education for Development) said he wished to report the brutal torture inflicted on himself and on many of his compatriots by the Government of General Obiang Nguerma in Equatorial Guinea during 1992 and early 1993. Political opponents of the regime had been dismissed from their jobs, arrested and tortured and, in some cases, released and then rearrested. Some had been killed. Girls had been raped in detention. Public protests against arbitrary arrests had been broken up by force.

25. The only independent press organ, La Verdad, had recently been banned, persons found in possession of copies of it had been punished, and the foreign press was not allowed to enter the country.

26. Promises made to foreign diplomats and the UNDP Resident Representative regarding the safety of victims had been broken, and when the representatives of Spain, France, the United States of America, the European Community and UNDP had called for the release of battered prisoners on humanitarian grounds, they had been accused of interfering in the country's internal affairs.

27. Death squads were being trained to destabilize the opposition and to murder its members, who were also being evicted from their homes, denied employment in the public sector, and forbidden to travel.

28. The human rights situation in Equatorial Guinea had thus deteriorated badly during 1992 and there was no sign of improvement in 1993. The people of Equatorial Guinea hoped that the Commission would bring the necessary pressure to bear to promote and protect their rights.

29. Mr. RETUREAU (World Federation of Trade Unions) said that there were some countries that stood out in all the various reports submitted to the Commission annually, with long lists of victims. One of them was Iran, where tens of thousands of executions of political opponents had taken place and there was no sign of the process slowing down. Torture and maltreatment were common in the prisons, as were arbitrary executions. Intellectuals and workers who had demonstrated against the Government in support of their economic and social claims were imprisoned, and some of them summarily executed on false criminal charges.

30. Under the theocratic regime, as under the monarchy that had preceded it, any manifestation of an opinion different from the official view was severely dealt with by the authorities, which showed a total disregard for international public opinion and persisted in engaging in crimes and intolerance which produced a bloody and inhuman caricature of Islam. In their blind fanaticism or arrogance, they had even gone so far as to demand the handing-over of Salman Rushdie, probably so that they could torture and kill him.

31. In recent years, his organization had regularly reported the systematic use of torture in Turkish prisons, particularly against political opponents and Kurdish nationalists. The denial of any rights to the Kurdish people was at the root of those massive human rights violations. The European Committee for the Prevention of Torture (CPT) had carried out two on-the-spot inquiry missions in Turkey, as from September 1990, and had produced reports on its findings.

32. The promises made by the new Government in 1991 had not been kept and, in view of the refusal of the authorities to change the practices of their police and military forces and jailers, the Council of Europe had decided to publish the Committee's reports in December 1992. They were overwhelming. Everything which the non-governmental organizations had been saying for over ten years was still true. The representatives of the Turkish Government in the Commission and the Sub-Commission had always accused the NGOs of being manipulated or partial. He wondered whether they would still adopt the same line and accuse the Council of Europe of being manipulated or partial.

33. Beatings, suspension by the wrists, torture by electric shocks and sexual abuse were continuing in Turkey, as indicated by the fact that the members of the Committee had found instruments of torture in the prisons visited at Ankara and Diyarbakir. Such practices were an insult to the human conscience and must cease, and the Turkish Government must take the problem seriously, since it constituted an ongoing violation of the European Convention on

Human Rights, the United Nations and European Conventions against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international instruments to which Turkey was a party.

34. In Morocco, Noubir el Amawi, a respected leader of the Democratic Labour Federation (CDT), was in prison for the fifth time in his life after being convicted on a trumped-up charge of "defaming" the Government. He had criticized the heads of certain public bodies or enterprises for mismanagement and corruption in an interview with the Spanish daily El País. He was also charged with having advocated the idea that the King should reign but not rule. It was scandalous that a trade union leader, speaking under the representative mandate conferred on him, could be prosecuted and sentenced for making comments which were an accurate reflection of the situation in his country. To reveal the truth was not defamation but, in the case of a democratically elected popular leader, a moral obligation.

35. The circumstances in which his trial had taken place indicated that the administration of justice was suffering from a flagrant lack of independence and impartiality. On 28 January 1993, in front of the Court of Appeal at Rabat, the police barrier put in place in order to prevent the friends of Noubir el Amawi from attending the theoretically public hearing was so impenetrable that even counsel for the defence had had great difficulty in entering the courtroom.

36. Those observers who had managed to obtain access to the court were unanimously agreed that no evidence whatsoever had been produced by the prosecutor and that basic procedural guarantees and the most elementary rules of justice had been grossly violated. After the hearing in first instance, Noubir el Amawi had been held in detention for several months until the appeal, in flagrant violation of the press law and the Moroccan Code of Criminal Procedure. The appeal judge had demonstrated his total submission to the Government and would probably be promoted for it.

37. In its resolution of 21 January 1993, the European Parliament had expressed its concern, bearing in mind the fact that the Moroccan Government claimed to have embarked on a democratization process and was a candidate for the office of vice-chairman at the World Conference on Human Rights to be held at Vienna in June 1993. It noted the failure to respect the rights of the defence and the violations of freedom of the press that had followed the trial in first instance. It also noted the sentencing to five years' imprisonment of Driss Ghnimi, regional secretary of another trade union, UGTM, for having supported a strike by agricultural workers, as well as the arrest of Ahmed Belaïchi, a leader of the Moroccan Association for Human Rights. Finally, the European Parliament called for the release of all those wrongfully imprisoned and for the establishment of the truth with regard to missing persons.

38. WFTU made the same demands: all imprisoned trade unionists and political prisoners must be released immediately, if the Government was really acting in good faith when it spoke of democratization. There were still 567 political prisoners in Morocco, and 64 missing persons, to which should be added approximately 600 Saharans. Instead of persisting in its accusations against the NGOs, the Government of Morocco would do better to

comply with international and regional instruments for the protection of human rights and to pursue seriously the announced democratization process. Otherwise it would be scandalous for a Moroccan to be elected to the office of vice-chairman at the Vienna Conference. WFTU expressed its full solidarity with the trade unionists in arbitrary detention and with all those who were fighting courageously for human rights, freedom of opinion and democracy in Morocco.

39. Lastly, WFTU called for the release of all Kuwaiti prisoners of war still being held in Iraq and condemned the crimes committed by the Iraqi regime against its prisoners. International pressure and action should be intensified in order to secure their early release.

The meeting rose at 6 p.m.